

These comments are in reference to the public comment period concerning the revision of the TCPA. While the TCPA has provided some effect on fax marketers, it is unfortunately that more often than not these junk marketers either use it as a shield or ignore the law completely. I will address certain aspects that I feel need attention.

Company-specific lists have been wholly inadequate in protecting the private citizens right to privacy and protection from intrusion. Companies will all too often hire multiple firms, or firms with several subsidiary branches for their telemarketing. These firms will claim that their removal of a number does not constitute that all other firms have to do the same. It is unreasonable to expect a person to request their removal on a call-by-call basis from databases a large telemarketing firm may hold. Telemarketing firms must be made to identify their principle company and allow immediate removal from every database that they control. Once a request is made, it can be difficult to know if the company is the same one as previously experienced. Telemarketing firms must be required to keep an in house removal request database as well as provide assurance that the firms for whom they market also are aware of the request. That way the firm for whom the calls are solicited cannot again hire other telemarketing firms who use other databases and again contact a person that does not wish to receive such solicitations. A National Do-Not-Call (hereby DNC) database will solve this problem. There can be no confusion as to what database was used to remove a person's number.

A personal problem experienced with telemarketers is the outright refusal to provide information concerning the contact information, or often enough, even the name of the company involved. When a complaint is made or the telemarketer discovers that the person is knowledgeable in the law, they will often either refuse to provide information or simply hang up to avoid those requests. This places undue burden on the consumer to track down the company using time-consuming and often expensive means of research, including subpoenas with the telephone company, in order to obtain the information required in the first place. The requirement to provide such information, such as the name of the company placing the call (including legal address, number, and officer or supervisor) needs to be further clarified. That clarification should also include the requirement to provide the same information for whom the call is being placed. Shady business and agencies hire inbound call companies that will not divulge the company's information, yet gladly accept any personal financial information in order to complete a sale. The businesses will then hire other firms to mass solicit through prerecorded calls, electronic messages (hereby "email"), or faxes to avoid being identified. Upon calling one of these reply numbers, the calls are routed to an inbound call center that answer in whatever name they wish, something usually as ambiguous as 'The Promotions Center', 'Corporate Travel', or 'Call Center'. The call is originated by and from an incorporate inbound calls center. Once sent, their own phone room takes the response calls. If the caller responding to their prerecord appears to sound sincere, they will ask you to hold on and transfer you to the other company who is actually selling a product or service. I have personally been a victim of this kind of abuse in mortgage and satellite advertisements. This is a form of screening service that does at least two things. It weeds out anyone who knows the law and wishes to confront them with it. Second, it only allows the less fortunate who have no clue about the law to get involved with a questionable business.

The new memorandum should reflect these acts and provide the requirement for identification of those taking part in the telemarketing calls.

Predictive dialers are intrusive in that they do not allow for any requests to be removed from a list, thereby allowing the same telemarketing firm to call as many times as necessary at their convenience until a live operator is reached. There is a burden placed on the consumer to answer such calls without knowing of the level of importance, only to be met with 'dead air', thus having the ability to cause undue stress and worry, particularly to those that are victims of abuse or those dealing with family stress (i.e. injury or illness).

While the company specific DNC list was intended to release the consumer from being forced to support the cost of being removed, it has wholly failed in this respect. The time investment alone in making these requests is substantial. To further protect the consumers, states themselves have created a hodgepodge of lists that further blur the understanding of the law and its intention. A cost is then sometimes placed on the actual consumer to have them added to a list. Those lists are often inadequate in fully protecting the consumer since they often lack a private right of action that allows the consumer to address violations against their right to privacy in court.

Specifically the state of Florida has a statute prohibiting junk faxes, and allows the Attorney General to file civil suit, though does not specifically allow private action. Too many violators of the TCPA simply use this as claims that states must 'opt-in' or provide specific legislation accepting this law before consumers can bring action in court. This was NOT the intention of Congress and must be specifically addressed. States do not have to bring 'opt-in' legislation to provide this right that should exist in the first place.

The only recourse is to make a complaint to the Attorney General's office, an already overworked branch of state government, which is unlikely to follow through due to an already overwhelming caseload. These laws are at times created by state legislatures that have no knowledge of the federal law already in effect, and this inadvertently provide the telemarketer a excuse of a less restrictive state law having precedent. Specific points must be provided clarification the TCPA in regards to being the primary law in cases where state law is less restrictive.

It should be well asserted that a National Do-not-call list would best protect the rights to privacy and to be simply 'left alone' of the consumer. It should be an affirmative defense of the consumer that being placed on the lists tells telemarketers that they do not wish to be contacted. A person taking such steps is unlikely to be willing to accept any such solicitation, so it would also be in the best interest of the telemarketer to not even place such a call that would be of no benefit to either party. The rights of business to contact those with whom they have a distinct business relationship is still thus protected. The consideration of a company specific list is important as well in the case of a national DNC list. This allows the consumer to establish that they wish to sever a current or previous business relationship with a company in terms of marketing and solicitation. It allows the consumer the right to such information unless they specifically request to

sever a **prior** relationship. Companies should still be required to maintain these lists in reference to business relationships. In the event there is no prior business relationship, then the placement of the number in the National DNC list should be sufficient acknowledgement that the person does not wish to be contacted.

When a National DNC list is enacted, efforts should be made to educate consumers and allow them easy access to such as list. The most effective way of notification would be on current phone bills. Subscribers to phone services should have the ability to have their account added to the national list without having to take many additional steps such as sending in a post card or making a phone call to a different agency. This would remove much of the burden of the administrators of the DNC list when the system is in place. A website or listserv would be a very cost effective method to allow people to add themselves to a list. Electronic databases can automatically update themselves with additional information with little additional use of government resources. I feel states and consumers have made it clear that this level of intrusion is unwanted and that continued abuse of the current system by telemarketers is an affront to their rights.

Confirmation of the request to not be solicited should be clarified as well. This requirement will further ensure that companies are honest in providing this information. Operators must be informed as to this requirement and able to immediately fulfill the request without having to go through additional steps. The consumer should not have the burden of having to go through multiple departments or levels of management to get the information they request. Failure to require this disclosure may be incentive for companies to violate the law if they feel that the consumer is unlikely to have any record to previous requests. The burden should be placed squarely onto those that use invasions of privacy of this nature for their financial gain.

The use of marketing associations' lists has been ineffective in that it has been used by other telemarketing companies as an excuse to not have their own list. They would merely tell the consumer that they have to go to another company or organization to be added to a list. Since the marketing associations are privately held companies, there is no real means of enforcing membership or compliance with the rules. The marketing associations are often at fault themselves for providing inaccurate or incomplete information concerning current laws already in place. The marketing company often states that they do not have right of enforcement in the matter, and determining if a particular company gets the list, much less how often it is updated, or if they even follow the rules is near impossible without the chance of a subpoena.

Technologies have been created to attempt to thwart telemarketers, such as machines and answer with a 'disconnected number', however the idea that the consumer must support additional financial burden to protect him or herself from unwanted invasions of privacy is an affront to their rights. These technologies are dubious at best in that changing methods used by telemarketers make such devices outdated and ineffective. What is worse is that they impose a disrupting and often quite annoying burden on legitimate calls that can be confused when they are confronted by various tones and automated messages. As such, one is held hostage by the means people are forced to employ simply to attempt

to avoid telemarketers. As systems change, the consumer must constantly keep up and purchase and use additional means to protect their privacy. It is well established that the use of such devices, or filters, are ineffective in stemming the tide of unsolicited advertisements through email. While the public phone system is more standardized, increasing technologies will be made to thwart and ignore the devices in order to force the calls upon the user. These devices may cause confusion among consumers in that it would possibly eliminate the ability for a company or entity to receive a solicitation even with prior express permission or request. If a person must use a generic device to avoid unwanted calls and companies were made to acknowledge the automatic request of the 'device', then there would be a conflict. When the legitimate company called, even with permission, they would be confronted with the device and thus either think the number is incorrect, disconnected, or be forced to remove such number because of the device.

The issue of auto dialers must be clarified with the advent of new technologies. Currently it is stated that calls should not be placed to "cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call." With the advent of 'instant messaging' services integrated to telephones, there is an extreme risk of abuse by unscrupulous telemarketers. Even though such messages might not be construed as being 'calls', they still incur high costs through the recipient's telephone billing. In many cases, there mere transmission of the text message, without even reading it, incurs a cost. It should be specifically prohibited for any form of advertising through these instant messaging services where the cost is levied on the user to receive, store, or access such messages. This should include paging services, and example of such violation is a common scam of pages with return numbers that may be out of country which are intended to incur phone charges. The mere transmission of such an unsolicited instant message advertisement should be clearly illegal, even without any further stipulation of author information.

Auto dialers are more intrusive in that they place the consumer at the mercy of the telemarketer and often leave no means of speaking with a live operator or conveying the intention to no be solicited. There have been many attempts by companies to use prerecords and leave a number for contact, yet that number be a voice mail machine itself. Unless the caller indicates an interest in the goods or services being offered, complaints and requests can easily be ignored without the company being required to provide acknowledgement. This is most commonly used by outbound call centers. Some company can place the calls which refer to another, separate center that simply receives the calls for a particular entity. Only if the call expresses interest, will they be transferred to yet another entity, that of which is obtaining the referrals. This prevents the consumer from find out anything about the company, including that which is legally required, without feigning interest. Those inbound calls centers that obtain the calls must subsequently be required to identify themselves. The right to be relieved of this level of privacy invasion should not be limited to residential lines. Business must be able to focus their resources dealing with the business rather than unwanted drains of those resources. With the current proliferation of telecommunication and home businesses, the line between distinct residential and business owned lines are blurred. If part of a residential line is used to conduct business, could it therefore be argued by the telemarketer that they

may solicit without fear of recourse? The subscribers of telecommunications services, and those that are financially responsible for those services should be able to determine what they are willing to accept. It would be an undue financial burden for the consumer to be forced to dedicate a line for faxes. With the current technology, a person may use a single line for data, voice, and fax communications, so specifically setting aside blocks of numbers for specific devices would not be constructive.

The requirement that telemarketers who use predictive dialers to also transmit caller ID information is important to the ability of the consumer to protect their privacy. This allows them not only maintain a record of their calls if needed, but to also force the company to disclose information upon request. If the blocking of caller ID were allowed, telemarketers would more easily be willing to ignore requests to provide information if they believe that they could not yet be traced. While forcing a company to provide information may be difficult considering compatibility among differing systems, they should not be allowed to specifically block such information and should make reasonable efforts to provide the information automatically. I have had specific cases where a marketing company placed a call whose number showed up on the Caller ID where as once the number was called, a prerecorded message (in an Indian accent) was given as to how the number being displayed was 'in error' and being fixed. This was the case of my receiving calls from a call center in the country of India. Clearly this was a blatant attempt to avoid being identified. These call centers must not be allowed to simply outsource to out-of-country centers to avoid the issues concerning identification.

While the commission regulations may require "that a person or entity making a telephone solicitation must provide the called party with the name of the individual caller, the name of the person or entity on whose behalf the call is being made, and a telephone number or address at which the person or entity may be contacted", the regulations should be expanded to include inbound call centers as well. The regulations must be updated to require the identification for which a call is either **received** or **placed**. I have personally been affected by solicitations received that required a call to a number to get information. Upon calling that number, the company or entity on the other line would completely refuse to provide any information as to the company's name nor any information concerning the company for whom the information was being collected. In reality, once the inbound company realized that the consumer was aware of the law and the illegal placed of a solicitation, they can simply refuse to identify anyone involved. The only way such an entity could be identified would be a subpoena of the phone company that owns the exchange. The information should be required to be provided when it is in reference to any solicitation, no matter the method of transmission. This prevent unscrupulous companies from using these call centers as safe havens.

The rules regarding identification in prerecorded calls should remain and be a requirement for all prerecorded calls with the exception of emergency services (e.g. reverse 911). Since the solicitation is placing the burden of receiving the call and hearing the message, then they should clearly provide the information during the call itself regarding valid contact data. I believe that the requirement should be clearly extended to

all levels of solicitation calls, as the consumer must have the right to know with whom they are speaking or who is requesting information.

While the exemptions regarding political or religious speech are not currently open to comment, it should be clarified as to the right of the consumer may request such callers to cease any further calls. I believe it should be required that such calls still be required to follow the same rules concerning identification and number removal as requested by the consumer. What certainly needs to be clarified are the rules regarding what is and is not commercial. A call offering a 'free' item or service has been used as a defense in that the telemarketer would claim that it was not a commercial call, even though extraneous charges such as shipping and handling, activation, and other fees would be required. The 'work at home' and 'free pagers' scams should not be allowed to claim any 'non-commercial' defense since the intent of the call is to eventually obtain some level of financial gain for the caller or entity on who's behalf the call is made. These calls are clearly made to generate business in the future and are made as 'free' offers merely in poor attempts to skirt the law. While this 'defense' is often overcome in court, it places undue burden on the consumer to educate the court system. The immediate solicitation of a purchase should not be the defining criteria. The main criteria should be what a reasonable person would consider the intent of the call to be. The public would be well served to have these criteria more explicitly stated and clarified to include such information intended to generate sales. The previous ambiguity has been a disservice to consumers attempting to address such violations in court. Clarification would reduce confusion for consumers and telemarketers. Prerecords from communication stations (e.g. radio and TV) concerning promotions or 'tune in' specials should be included in the issue of general intent. It is the intent of these calls to solicit viewers or listeners to promotions designed for commercial intent. The courts have never had a problem in distinguishing what is and what is not commercial. Likewise, messages that are predominantly commercial in nature should be restricted by the regulations. Without clarification, telemarketing companies could use non-profit organizations as a shield. They could sell nearly any product and claim non-profit protection if any portion of the proceeds goes to such an agency. Non-profits would normally be willing for such connections since it would generate some, if even very little, income for their cause. Consumers are very often concerned when they learn as to what percentage of their donation or purchase actually goes to such organizations. A stipulation of disclosure should be made concerning what percentage of money goes directly to the charities and what percentage goes to 'operating costs'. It is extremely important to require that such organizations making such calls provide contact information for their company, not just the organization on whose behalf they are soliciting, upon request. The point concerning non-profits is important. It has been established that some telemarketing firms have created their own non-profit company for whom they will solicit.

Concerning 'prior business relationship' it should be specified as to what level of prior relationship there was in regards to all calls, prerecords, faxes, and live solicitations. For example, purchasing a list from a membership organization that has retained an individual's contact information should not be construed as any level of business relationship. While this should be clear to most, I feel that it should be specifically

mentioned that permission may not be purchased or sold in this manner. The establishment of a business relationship should originate with the consumer. The collection of contact information should be accompanied with the intention of the collector as to how the information should be used. At such times the consumer provides personal information, they should be allowed to provide stipulations as to how the information may and may not be used. The consumer should not be made to completely sever a business relationship in order to seek reprieve from further solicitations. In nearly every case of solicitation, the use of printed mail may easily inform and allow changes of policy or accounts. If a consumer requests to not receive commercial telephone solicitation, then they should be able to have that request honored. At that point the mail system would best serve further contact. The business may, however, choose to thus completely terminate their relationship. In absence of that choice, then they should respect the wishes of the consumer. The intent of commercialization is the key point. A subscriber may terminate the relationship in regards to further solicitation from a newspaper, however that newspaper should be allowed to contact them in regards to problems with delivery, but not to attempt to gain a renewed subscription.

The effectiveness of the current unsolicited fax has been poor. Dozens of companies to ignore the law and fax without mercy, even to those that have sent dozens of their own requests to have it stopped. These fax companies continue to hide their identity by using different headers and 'remove numbers' that simply do not work. Even after multiple citations from the FCC, these companies continue to flaunt their business. I strongly implore the FCC to take immediate and swift actions concerning these violations, especially from the large companies like Fax.com and Inbound Calls Inc. Thousands of dollars a day are wasted by consumers in the transmission, storage, processing, and printing of these faxes. In many instances, these illegal faxes have destroyed a companies ability to do business or a hospital's ability to be contacted. This unethical behavior must stop! The mere publication of a fax number does not imply express permission. This is especially true when the fax advertisement is unexpected and unsolicited. Merely targeting an association's members that have provide their fax number for other members or as part of their membership does not imply that others may send commercial unsolicited advertisements.

Fax broadcasters have a **high** degree of responsibility in the proliferation of unsolicited faxes. They have a long history of willfully and knowingly violating the law and ignoring the pleas of consumers. They are also responsible for intentionally misleading advertisers as to the legality of the advertisements, thus create an immediate danger to the welfare of a business should it be sued for violations concerning actions taken which they were told was allowed. The commission should specifically address the problems with fax broadcasters as well as enforce current law to have this force ended. I fear that describing what constitutes a 'fax broadcaster' would open too many loopholes. A Current fax broadcaster could try splitting into several companies that takes an order, then sells it's order list to another company that distributes to small time operations that are difficult to trace. There must be some way to trace the chain of the solicitation. I strongly implore the commission to require fax advertisements to identify the entity on whose behalf the messages are sent as well as the entity responsible for sending the fax. It should be

further clarified that the act of sending the fax as well as hiring another to send the fax in knowing violation of the law be prohibited. Since current email spammers are going offshore to avoid being shut down, I fear the fax broadcasters will attempt to move operations to other countries such as Mexico and Canada, as is already the case. Therefore the commission should prohibit advertisers from using such offshore companies to do their fax blasting. It must be reinforced that the weight of the violation should be placed on the entity sending the faxes or for whom those faxes are sent. The consumer may not be able to seek full protection from the fax blaster themselves, but can address damages against the company on whose behalf the advertisement was knowingly made.

Wireless calls should not be distinguished by residential vs. business since such dedication would be impossible. The issue of the consumer bearing the cost of such solicitations is the key. It should be affirmed that all wireless solicitations should be prohibited since there is no way to reliably distinguish on what is and is not considered free to the consumer in terms of what they are charged for the call. Providing telemarketers access to IVR information would wholly be a violation of consumer privacy and the consumer trust as this technology was developed to serve public health. This greatly harms the community as a whole in both business, and consumer right to privacy aspects. It could be a issue of public safety if someone were to feel that they must disable this feature in order to obtain protection from solicitations, thus endangering the effective of emergency response.

The FCC should clarify determination of what constitutes a violation in terms of private right of action. There has been confusion as to how often a telemarketer may contact a consumer even **after** being requested to stop. This confusion partly arrives from the statement that telemarketers must maintain a record of a request for 10 years, while not allowing a right of action unless the telemarketer calls twice within a twelve month period. Clarification should be made as to whether the consumer may make claims for damages of even one violation such as failure to identify themselves, failure to provide a written policy, or failure to honor the request for ten years. Only requiring a **second** violation in any 12 month time period makes having the 10 year requirement worthless. Once the consumer has stated that they no longer wish to receive such calls, then that request should be honored without any further exception. If the telemarketer is worried that the owner of the number may change, then they can use various resources to determine if the phone number is owned by the same person or it. Simply enough, an address provided for the sending of the DNC policy can be used to contact the customer to see if they later wish to receive such calls. I believe that it is reasonable to stipulate that the name and number must remain on the list for at least 10 years, but no less than 5, and that any other calls, even a single one, in violation of that request in that time period would be a violation of the law. Telemarketers should be made to address such concerns and complaints of the consumer as any common carrier may. Often enough the company will refuse to address the issue unless they are so required and would earn penalties if refused. This commission should require that such complaints be addressed within a timely manner and record of such complaints be made. Without benefit of knowing

others are involved in similar instances, one can be easily discouraged into thinking that they cannot make a difference and protect their own rights.

State law should not preempt restrictions set forth by the TCPA unless they were to place more restrictive stipulations, for example require a telemarketing company maintain a DNC list for 15 years instead of 10 years. It should be asserted that one aspect of the TCPA being more restrictive does not overrule the entire standing state law. I believe that the public and its representations have shown that this method of marketing is unwanted and provide undue threats to a consumers right of privacy. Congress, in setting forth this law, intended to provide protection to the consumer from such invasions of privacy and harassment from such solicitations. In absence of any more restrictive conditions, then the TCPA should clearly take precedent as it serves the best interests of public welfare. It should be further clarified that the consumer has private right of action for immediate violations of the law and that, as allowed by state law, small claims court is the correct place to make claims to such damages as allowed by monetary limits. It should be further clarified that this law is intended to address consumer statutory damages and should not be construed as being a nuisance law. There have been several cases where small claims court judges were misinformed of the law and threw out the case as they thought the TCPA was simply being used to 'get back' and an advertiser for simply annoying a consumer. The intention of Congress was to allow the consumer the ability to address damages on their own instead of waiting for local or state law enforcement to take actions. If it were not for that private right of action, then I have no doubt that companies would have little to incentive to not completely ignore the law as it suited their needs.

The issue concerning the mistaken notions of a state's requirement to 'opt-in' before a private right of actions exists must certainly be addressed. This is a critical point that concerns the rights of ever consumer in the country.

I fully support the commission's intent to create a national DNC list. This will undoubtedly be the most effective method to allow the consumer and single way to state that they do not wish to receive such solicitation. With the advent of electronic databases and transmission, a consumer could easily be added to the list and quickly have their name distributed instead of waiting for a quarterly or yearly refresh of the data. Telemarketers should have little incentive to not support such a list since a consumer already making such a statement is unlikely to be interested in their services, thus that company can better place its resources on those that do wish for such 'offers'. This method would produce much less burden on the consumer in that they no longer have to make requests for every solicitation that they get. The collaboration of the lists from the FTC and lists held by states currently would be an immediate boost. It is logical to have these names added to the list from the beginning since these consumers have already taken steps to be removed already. Consumer privacy need not be at risk since names do not have to be associated with number directly. Simply placing one's number on the list should be sufficient since that is all that is often used already to begin a solicitation. With the advent of technology, costs can greatly be reduced and even supported by fining those that blatantly violate the law after repeated warnings. Since this would be a central list, it would consolidate all costs currently being made by telemarketers in purchasing DNC

lists. It would also allow telemarketers without means of gather a large database on their own company specific lists a way to determine who in the target area is certainly not interested in such solicitations, and this saving time and resources for all involved. I believe that there is nothing that should prevent common carriers from informing consumers as to their rights of privacy and passing on any requests to be added or removed, just as they would pass on a request to a long distance company in order to have a service switched. Since the telephone company has such easy access to the information concerning a local area, they can cover their costs by providing an even more up-to-date list to local telemarketers at a reasonable cost. I believe that the FCC should mirror proposed rules by the FTC to maintain records concerning requirements that must be met before companies may avail themselves of the "safe harbor" protections for violating the do-not-call rules.

The creation of a two year list may be detrimental to that list in that it would be a discouragement to the consumer to take the time to get themselves added to a list that they feel may only be temporary. I feel that there is sufficient evidence as to the wants and wishes of consumers concern telemarketing that that upon education, there would be overwhelming support for the system once in place. If the temporary list is created and thus dropped, it could create disruption in the state lists in that a consumer is unlikely to want to pay to be a member of both lists, and thus allow the state 'membership' lapse, thus be left with no preemptive protection from telemarketers once the national list is discontinued. Information such as telephone numbers, zip codes, and data showing the dates when one was added to a list will not be detrimental to privacy. These would all serve means to verify the intent of the consumer to be 'left alone' and provide easy cross reference and error checking to prevent problems.

It should be specifically stated of the consumer's right of action across states lines. It would clear up many false defenses made by telemarketers that their existence in another state than to which the call was made protects them from private right of action in state court. Congress intended the consumer to have private right of action to defend their rights and address damages, this small claims courts best serve that purpose. There should be clarification that damages specifically may occur in the location in which the consumer received the solicitation. The new regulations should also specifically state that they pre-empt any preexisting or conflicting federal or possible state law. For example, junk fax marketers claims that since a state business code requires a 'opt-out' number on faxes, then any unsolicited fax is allowed if they include that information. Though California recently enacted legislation that closed the loophole, that never really existed, this kind of confusion needs to be eliminated before it can continue with the new rules which would then require multiple new courts cases to determine. The intent of the law should also be mentioned as to demonstrate the reasoning of Congress and subsequently the FCC in creation of the law...to protect the consumer's right to privacy.

I implore the commission to again provide the consumer the ability to defend their rights and to close currently loopholes that are being exploited by rogue telemarketers. I do not believe that any of the proposed revisions will place undue burden on the telemarketer as they can certainly have reduce the human capital and monetary resources currently

employed. Both the consumer and telemarketer will be served well by these changes. I specifically encourage the commission to ensure that the private right of action be maintained and strengthened and that current weaknesses be removed. One of the biggest weaknesses is the stipulation that the telemarketer has to call at least twice in a 12-month period AFTER being asked to stop before suit may be taken. This is an affront to common sense and cannot be intended to truly protect the consumer or their interests. This rule directly conflicts with the requirement to maintain a number for 10 years. Why keep that record if you can intentionally call and solicit a person once a year even after being asked to stop.

It should also be clarified that prerecords left on answering machines are no different than any other prerecord. In many ways, such messages are even more of a nuisance. One aspect to consider is that devices placing such calls will simply hang up with 'dead air' if a live person were to answer. Even though the law states that identification must be made, none is attempted and there is no way to identify the call as such calls are often done with Caller ID blocked or faked. I have personally received calls from satellite system providers (such as Satellite Solutions in Tampa, Florida that used an inbound call center based in Aliso Viejo Ca; using methods mentioned previously in this comment document), 'Work at Home' scams from Herbalife affiliates, and even custom golf equipment manufacturers (such as Warrior Custom Golf in California) that have done this specific act. The additional strain on the consumer is the inability for them to obtain other messages once the voice mailbox, tape, or other such media has been filled. Consumers checking for messages remotely may have to pay increased fees in long distance charges or cellular phone airtime because of these messages.

Telemarketing for charitable organizations would only be allowed only when a direct employee or volunteer of the charity conduct them. In some states, telemarketers have filed suits claiming 1st and 14th Amendment violation; all were filed on behalf of various charities, most likely just being used as a front for a telemarketer. The DMA and ATA are trying to get the FCC to adopt regulations that will prohibit state DNC lists, rolling them into whatever regulation they can buy on the Federal level. This is increasingly becoming the tactic of various organizations trying to fight more restrictive state laws. Under the auspices of having so many different laws that are difficult to follow and costs them money, they use Federal legislation to obtain far less restrictive rules. Privacy laws such as the one in North Dakota that requires "opt-in" for all financial data sharing are the targets, with proposed Federal laws prohibiting states from adopting more restrictive measures. The problem I see in this is that the TCPA does not, to the best of my knowledge, make any allowances for restricting state laws. If the DMA and ATA have their way the FTC and FCC DNC lists will have marginal protections and will prohibit more restrictive state laws. Provisions such as charity exemption, the California regulations on predictive dialers, various other state laws, including those in Indiana and other states that prohibit the intentional blocking of caller ID signals, will all be watered down to nothing. Any additional regulations should include prohibitions from the intentional blocking of caller ID signals from ANY entity placing a call for telemarketing purposes. Their numbers are always blocked or unknown, even though some of them are local businesses that I know caller-ID should work for. This is really unfair. I have heard that

some telemarketers intentionally use old telephone equipment or operate from places where caller-ID won't work.

In order to obtain a level of privacy that should be expected in a residential home, there are increased fees, services, and devices that must be used. In order to identify callers, one must pay for caller-ID, then pay for another service to block "anonymous" calls, and even more again to have an unlisted number. Some phone companies push a "privacy manager" service, yet will just as quickly turn around and sell the consumer information to those place the calls selling my number to the telemarketers. This level of gaul is preposterous.

I implore the FCC to assist the consumers of the United to strengthen their rights to privacy and peace. Please affirm the courts' findings that states do not have to opt-in to this federal law in order for citizens to. Please update the regulations to include the newest loopholes and technologies that telemarketers use in vain attempts to get around the law.